

3544. Adulteration and misbranding of scioppo di tamarindo. U. S. v. Basilea-Calandra Co. Plea of guilty. Fine, \$50. (F. & D. No. 5528. I. S. No. 766-e.)

On June 11, 1914, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Basilea-Calandra Co., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on April 10, 1912, from the State of New York into the State of Colorado, of a quantity of scioppo di tamarindo which was adulterated and misbranded. The product was labeled: "Scioppo di Tamarindo (picture of female) Bascal Trade Mark Registered Gradevole. Rinfrescante The original contents of this package constitute a compound Compounded and Bottled in New York, N. Y."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Solids by refractometer (per cent)	66.91
Reducing sugar as invert before inversion (per cent)	64.7
Sucrose, by copper (per cent)	1.33
Acidity, as tartaric (per cent)	1.15
Nonsugar solids (per cent)	0.88
Acidity (cc N/10 alkali per 100 grams)	153.5
Ash (per cent)	0.098
Alkalinity of ash (cc N/10 acid per 100 grams)	17.9
Phosphoric acid (P_2O_5) (per cent)	0.0039
Citric acid: Negative.	
Colored with caramel (Amthor's test).	
Color (degrees in $\frac{1}{2}$ -inch cell, brewer's scale)	280

Adulteration of the product was alleged in the information for the reason that a substance, to wit, a sugar solution flavored with tartaric acid and colored with caramel, had been substituted wholly or in part for the genuine tamarind sirup, which the article purported to be, and for the further reason that the said article was colored with caramel in a manner whereby its inferiority was concealed. Misbranding was alleged for the reason that the statement "Scioppo di Tamarindo," appearing on the label aforesaid, regarding the article and the ingredients and substances therein contained, was false and misleading in that it indicated that said article was a genuine tamarind sirup, whereas, in truth and in fact, it was not a genuine tamarind sirup, but was a sugar solution flavored with tartaric acid and colored with caramel. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, being labeled "Scioppo di Tamarindo," thereby indicating that the article aforesaid was a genuine tamarind sirup, whereas, in truth and in fact, it was not a genuine tamarind sirup, but was a sugar solution flavored with tartaric acid and colored with caramel.

It was further alleged in the information that on February 27, 1912, a criminal information was filed in the United States District Court for the Southern District of New York, charging said defendant with a violation of the Food and Drugs Act, and that on March 11, 1912, the said defendant pleaded guilty to the information and sentence was suspended.

On June 15, 1914, the defendant company entered a plea of not guilty in the present case, and on June 25, 1914, a demurrer to the information was interposed on the ground that a second offense could not properly be charged, as the product in the present case was a different product from the one upon which the first conviction was had. On July 24, 1914, the demurrer was overruled by the court (Grubb, J.) and an order entered to that effect.

On October 6, 1914, the defendant company withdrew its plea of not guilty previously entered and entered a plea of guilty to the information in the present case, and the court imposed a fine of \$50.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., January 13, 1915.